

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2481 of 1997

TO

FIRST APPEAL No 2507 of 1997

Hon'ble MR.JUSTICE Y.B.BHATT

and

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SPL.LAQ OFFICER

Versus

GANDABHAI BHULABHAI PATEL, HEIROF DECD. BHULABHAI MARGHABHAI

Appearance:

MR SJ DAVE for the appellants

MR AJ PATEL for Respondents

CORAM : MR.JUSTICE Y.B.BHATT and

MR.JUSTICE C.K.BUCH

Date of decision: 03/04/98

COMMON ORAL JUDGEMENT (Per Y.B. Bhatt J.)

1. Heard the learned counsel for the respective

parties. Appeals admitted. Mr. A.J. Patel waives service on behalf of the respondents-original claimants.

2. On the joint request of learned counsel for the respective parties these appeals are taken up for final hearing today.

3. These are appeals filed by the appellant State of Gujarat under section 54 of the Land Acquisition Act read with section 96, CPC, challenging the common judgement and awards passed by the Reference Court under section 18 of the said Act.

4. As a result of the hearing and discussion, certain facts emerge which are not in dispute. The lands were acquired for the purpose of Narmada Main Canal Project under section 4 notification dated 29th January 1987. The Land Acquisition Officer, under his award under section 11 of the said Act, determined the market value and made corresponding offer at the rate of Rs.3/- per square meter for non-irrigated land and Rs.4/- per square meter for irrigated land.

5. The original claimants not having accepted the award, preferred Reference applications under section 18 of the said Act, which were decided by the Reference Court by determining the market value of the acquired lands at the rate of Rs.70/- per square meter for non-irrigated land and Rs.71.50 for irrigated land.

6. It is pertinent to note at this stage that the Reference Court has specifically and to a substantial extent relied upon Exh.59 and 60, which are awards passed by the Reference Court pursuant to acquisition of lands in villages Karai and Limbadiya respectively, at the rate of Rs.70/- per square meter.

7. It is common ground of learned counsel for both the sides that these awards viz. Exh.59 and 60, after going through the requisite First Appeals, were ultimately heard and decided by the Supreme Court being Civil Appeal Nos.923/98 to 967/98, decided on 13th February 1998. A certified copy of the said decision of the Supreme Court has been made available to us, whereby the market value of the acquired lands has been determined by the Supreme Court at the rate of Rs.53/per square meter.

8. It is pertinent to note that respective counsel for both the sides agree that the said decision of the Supreme Court would directly govern the facts of the

present case inasmuch as the relevant notifications under section 4 in the instant case and in the case before the Supreme Court are only about two weeks apart, and that the villages concerned in the two groups are more or less adjacent to each other.

9. Thus, both on the facts of the present case, as also on a consensus between the learned counsel for the respective parties, we hold and determine the market value of the acquired lands in the instant case at Rs.53/- per square meter.

10. Apart from the question of determination of market value, no other contention has been raised by learned counsel for the appellant-State.

11. However, merely with a view to clarify the possible interpretation of the operative part of the order passed by the Reference Court, we may state that the claimants would not be entitled to solatium on the amount payable under section 23(1)(a) of the said act, that the claimants would not be entitled to any interest on the solatium, and further that the claimants would not be entitled to any interest on the amount payable under section 23(1-A) of the said Act.

12. In view of our aforesaid findings and determination, the common judgement and awards impugned in the present group of appeals are quashed and set aside and shall be substituted by our above-said findings.

13. These appeals are, therefore, partly allowed with no order as to costs. Decree accordingly.
